

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF LOUISVILLE GAS)	
AND ELECTRIC COMPANY FOR AN)	CASE NO.
ADJUSTMENT OF ITS ELECTRIC)	2014-00372
RATES)	

ORDER

On December 15, 2014, Wallace McMullen and the Sierra Club (collectively “Movants”) filed a petition seeking intervention in this proceeding. Movants state that they have extensive experience in the underlying issues regarding rates and rate design. They assert that their intervention will “help to ensure that the approved rate structure reflects important policy objectives such as encouraging customer adoption of measures that reduce overall system costs and avoiding disproportionate impacts on low-income customers.”¹ Movants note that Louisville Gas and Electric Company’s (“LG&E”) proposed rate adjustment significantly increase the fixed monthly residential customer charge. Movants argue that this increase could decrease customer incentive to install energy-efficiency measures, distributed generation, participation in demand-side management programs and individual energy conservation efforts.

Movants additionally state that they have been actively involved in cases in other jurisdictions dealing with time-of-use rates and that they will be able to offer expertise regarding rate design and promoting energy efficiency. Movants contend that no other intervenor will adequately represent their interests.

¹ Wallace McMullen and Sierra Club Motion for Intervention at 2.

LG&E filed an objection to Movants' petition in which it argues that Movants failed to demonstrate a special interest in the proceeding. It argues that the Sierra Club's members have the same interest in rates and services that is possessed by all other individual customers, and that those interests are adequately represented by the Attorney General. LG&E further questions whether the Sierra Club's purported interest is in advocating on behalf of low-income ratepayers, and if it is, whether such interests are protected by the Attorney General and the Association of Community Ministries, Inc. Regarding the Sierra Club's interest in advancing any environmental interests, LG&E states that such goals are outside of the Commission's jurisdiction over rates and services.

Finally, LG&E asserts that Movants have not demonstrated that they possess any special expertise that would assist the Commission. It states that Movants expressed expertise appears to apply only to the Sierra Club and not to Mr. McMullen, who has not provided any testimony or otherwise participated in previous proceedings in which he has been granted intervention. As to the Sierra Club's expertise, LG&E asserts that the Sierra Club has failed to demonstrate any special knowledge in ratemaking. LG&E argues that the current intervenors, having routinely intervened in past rate cases, possess sufficient experience and expertise to address all of the areas raised by the Sierra Club, such as time-of-use rates.

On January 7, 2015, the Sierra Club tendered a motion to for leave to file a late reply. In support, it states that its counsel was out of the office until January 2, 2015, and did not become aware of LG&E's objection until that date. The Sierra Club represents that counsel for LG&E does not object to filing a late reply.

Movants submitted a reply refuting LG&E's assertion that they lack specific expertise regarding rates. In addition to participating in a rate proceeding before this Commission in 2012, Movants state that they have participated in multiple recent rate proceedings in other jurisdictions. Movants state that they have retained an expert, Jonathan Wallach with Resource Insight, Inc., to provide expert testimony in this proceeding. Movants note that in LG&E's most recent application to adjust its rates, issues pertaining to efficiency and conservation were not raised in intervenor testimony. Therefore, they argue that because their primary focus will be on conservation and efficiency, their intervention differs from that of the current intervenors and will be of assistance to the Commission. Movants contend that public interests groups would rarely be granted intervention if the Attorney General was found to have sufficient expertise on all matters relevant to the group.

The Commission notes that the Attorney General is the only person that has a statutory right to intervene in a proceeding before the Commission, and the intervention of any other person is within the discretion of the Commission.² A person other than the Attorney General may be granted leave to intervene in a proceeding before the Commission if that person possesses "a special interest in the case that is not otherwise adequately represented or that his or her intervention is likely to present issues or to develop facts that assist the commission in fully considering the matter without unduly complicating or disrupting the proceedings."³

² *Inter-County Rural Electric Cooperative Corporation v. Public Service Comm'n of Kentucky*, 407 SW 2d 127, 130 (Ky. 1966).

³ 807 KAR 5:001, Section 4(11)(b).

As a preliminary matter, the Commission finds that in consideration of LG&E's acquiescence to the motion to file a late reply, the Sierra Club's motion to file a late reply should be granted. Having reviewed the pleadings and being otherwise sufficiently advised, the Commission further finds that the Sierra Club possesses special knowledge and expertise in multiple areas, including energy efficiency, the institution of time-of-use rates and the impact of the proposed rate design on both energy efficiency and customer participation in demand-side management. Such issues are all within the scope of the Commission's jurisdiction over rates and service.

Accordingly, because the Sierra Club is likely to present issues and develop facts that will assist the Commission in considering this matter without unduly complicating or disrupting the proceedings, the Commission finds that its request for intervention should be granted.

IT IS HEREBY ORDERED that:

1. The Motion of the Sierra Club to file a late reply is granted.
2. The Motion of Wallace McMullen and the Sierra Club to intervene is granted.
3. Wallace McMullen and the Sierra Club shall be entitled to the full rights of a party and shall be served with the Commission's Orders after the date of this Order.
4. Wallace McMullen and the Sierra Club shall adhere to the procedural schedule set forth in the Commission's December 12, 2014 Order and as amended by subsequent Orders.

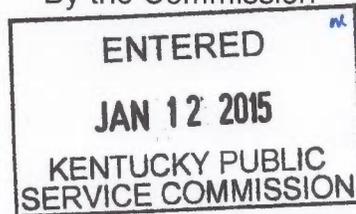
5. Wallace McMullen and the Sierra Club shall comply with all provisions of the Commission's regulation, 807 KAR 5:001, Section 8, related to the service and electronic filing of documents.

6. Pursuant to 807 KAR 5:001, Section 8(9), within seven days of entry of this Order, Wallace McMullen and the Sierra Club shall file a written statement, with a copy to parties of record, that:

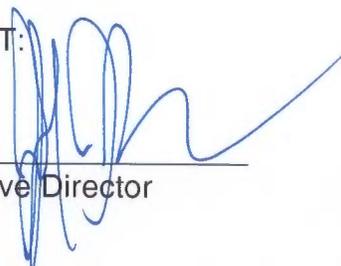
a. It, or its agent, possesses the facilities to receive electronic transmissions.

b. Sets forth the electronic mail address to which all electronic notices and messages related to this proceeding should be served.

By the Commission



ATTEST:



Executive Director

Honorable Kurt J Boehm
Attorney at Law
Boehm, Kurtz & Lowry
36 East Seventh Street
Suite 1510
Cincinnati, OHIO 45202

Gardner F Gillespie
Sheppard Mullin Richter & Hampton LLP
1300 I Street NW
11th Floor East
Washington, DISTRICT OF COLUMBIA 20005

Rick E Lovekamp
Manager - Regulatory Affairs
LG&E and KU Energy LLC
220 West Main Street
Louisville, KENTUCKY 40202

David Brown
Stites & Harbison, PLLC
1800 Providian Center
400 West Market Street
Louisville, KENTUCKY 40202

Angela M Goad
Assistant Attorney General
Office of the Attorney General Utility & Rate
1024 Capital Center Drive
Suite 200
Frankfort, KENTUCKY 40601-8204

Honorable Matthew R Malone
Attorney at Law
Hurt, Crosbie & May PLLC
The Equus Building
127 West Main Street
Lexington, KENTUCKY 40507

Honorable Joe F Childers
Attorney at Law
201 West Short Street
Suite 310
Lexington, KENTUCKY 40507

Honorable Lindsey W Ingram, III
Attorney at Law
STOLL KEENON OGDEN PLLC
300 West Vine Street
Suite 2100
Lexington, KENTUCKY 40507-1801

Honorable William H May, III
Attorney at Law
Hurt, Crosbie & May PLLC
The Equus Building
127 West Main Street
Lexington, KENTUCKY 40507

Robert Conroy
LG&E and KU Energy LLC
220 West Main Street
Louisville, KENTUCKY 40202

Honorable Lisa Kilkelly
Attorney at Law
Legal Aid Society
416 West Muhammad Ali Boulevard
Suite 300
Louisville, KENTUCKY 40202

Eileen Ordovery
Legal Aid Society
416 West Muhammad Ali Boulevard
Suite 300
Louisville, KENTUCKY 40202

Larry Cook
Assistant Attorney General
Office of the Attorney General Utility & Rate
1024 Capital Center Drive
Suite 200
Frankfort, KENTUCKY 40601-8204

Honorable Michael L Kurtz
Attorney at Law
Boehm, Kurtz & Lowry
36 East Seventh Street
Suite 1510
Cincinnati, OHIO 45202

Don C Parker
Spilman Thomas & Battle, PLLC
300 Kanawha Blvd, East
Charleston, WEST VIRGINIA 25301

Honorable W. Duncan Crosby III
Attorney at Law
Stoll Keenon Ogden, PLLC
2000 PNC Plaza
500 W Jefferson Street
Louisville, KENTUCKY 40202-2828

Jody M Kyler Cohn
Boehm, Kurtz & Lowry
36 East Seventh Street
Suite 1510
Cincinnati, OHIO 45202

Honorable Kendrick R Riggs
Attorney at Law
Stoll Keenon Ogden, PLLC
2000 PNC Plaza
500 W Jefferson Street
Louisville, KENTUCKY 40202-2828

Gregory T Dutton
Assistant Attorney General
Office of the Attorney General Utility & Rate
1024 Capital Center Drive
Suite 200
Frankfort, KENTUCKY 40601-8204

Amanda M Lanham
Sheppard Mullin Richter & Hampton LLP
1300 I Street NW
11th Floor East
Washington, DISTRICT OF COLUMBIA 20005

Kyle J Smith
General Attorney
U.S. Army Legal Services Agency
9275 Gunston Road
ATTN: JALS-RL/IP
Fort Belvoir, VIRGINIA 22060-554

Ed Staton
LG&E and KU Energy LLC
220 West Main Street
Louisville, KENTUCKY 40202

Honorable Allyson K Sturgeon
Senior Corporate Attorney
LG&E and KU Energy LLC
220 West Main Street
Louisville, KENTUCKY 40202

Janice Theriot
Zielke Law Firm PLLC
1250 Meidinger Tower
462 South Fourth Avenue
Louisville, KENTUCKY 40202

Honorable Robert M Watt, III
Attorney At Law
STOLL KEENON OGDEN PLLC
300 West Vine Street
Suite 2100
Lexington, KENTUCKY 40507-1801

Derrick P Williamson
Spilman Thomas & Battle, PLLC
1100 Brent Creek Blvd., Suite 101
Mechanicsburg, PENNSYLVANIA 17050